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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 04-10493 GAO

MANUEL ROSA,)
Plaintiff)

vs.)

CITY OF BOSTON,)
Defendant)

DEPOSITION OF MANUEL ROSA, a witness

called on behalf of the Defendant, pursuant
to the Massachusetts Rules of Civil
Procedure, before Kelly G. Patterson, a
Notary Public in and for the Commonwealth of
Massachusetts, at the City of Boston Law
Department, Room 615, City Hall, Boston,
Massachusetts, on Friday, September 23,
2005, commencing at 12:55 p.m.

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1 drive the car, and I was a passenger, and I
 2 couldn't prove that I was the passenger
 3 driving -- I mean, it was some girl driving,
 4 so they blame it on me.
 5 Q. What were they blaming on you?
 6 A. It was like, my car, somebody else was
 7 driving. I couldn't prove it anyway -- can
 8 you repeat that question?
 9 MR. KELLY: What did they charge
 10 you with?
 11 A. What did they charge me with? They said it
 12 was a crime.
 13 Q. What crime?
 14 A. My car hit other cars.
 15 Q. I see. So someone you know was driving the
 16 car and you were in the passenger seat and
 17 the car hit another car?
 18 A. Right.
 19 Q. Had the driver been drinking?
 20 A. Yeah.
 21 Q. When was that?
 22 A. This was in 2000.
 23 Q. What was that person's name?
 24 A. That person's name -- they didn't bring it,

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1 though.
 2 Q. Who was driving the car?
 3 A. Her name is -- I can't recall her name right
 4 now, but they didn't bring her in anyways.
 5 It was Jamie Kirby.
 6 Q. I'm sorry, Jamie Kirby?
 7 A. Right.
 8 Q. How did you know her?
 9 A. She came over with a friend. She came over
 10 my house with a friend.
 11 Q. Had you met her before?
 12 A. I had seen her, yeah, so I was taking her
 13 home.
 14 Q. Do you know if she was arrested or charged
 15 with anything?
 16 A. No, she wasn't arrested. She got out of the
 17 car and said she wasn't driving, she lied.
 18 MR. KELLY: The car was in your
 19 name, it was your car?
 20 THE WITNESS: It was my car.
 21 Q. Are there any restrictions on when you can
 22 drive or what you need to wear to drive
 23 right now?
 24 A. No.

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1 Q. Do you wear eyeglasses?
 2 A. No, not prescribed.
 3 Q. Do you wear some for reading or anything
 4 like that?
 5 A. No.
 6 Q. Do you wear contact lenses?
 7 A. No.
 8 Q. Do you have any ongoing medical problems?
 9 A. No. Just dentist.
 10 Q. I'm sorry, the dentist?
 11 A. The dentist.
 12 Q. Do your teeth keep rotting on you?
 13 A. Yeah, just dentist.
 14 Q. So I understand that at some point in time
 15 in the early 1990's you lost or had stolen
 16 your personal identification, is that right?
 17 A. That's correct.
 18 Q. When did that happen?
 19 A. That happened like in 1993, something like
 20 that. '92 or '93.
 21 Q. What exactly did you lose?
 22 A. Did I loose?
 23 Q. Yes.
 24 A. My license. I lost my license.

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1 Q. Did you lose anything else?
 2 A. No.
 3 MR. KELLY: When you say your
 4 license, do you mean your Massachusetts
 5 driver's license, is that right?
 6 THE WITNESS: Right, my
 7 Massachusetts driver's license.
 8 MR. KELLY: Mr. Forton asked you if
 9 you lost anything else.
 10 THE WITNESS: No.
 11 MR. KELLY: You know what a Green
 12 Card is and that sort of thing, did you lose
 13 that?
 14 THE WITNESS: No.
 15 MR. KELLY: It was just your
 16 license?
 17 THE WITNESS: Yeah.
 18 Q. How did you lose just your license?
 19 A. I don't know. You got to the store or
 20 something, you got to show your license.
 21 Back then I was younger.
 22 Q. What does that mean?
 23 A. Like sometime when I drink a beer, I
 24 probably left it somewhere.

5 (Pages 14 to 17)

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1 Q. Your license, at that time in 1993, did you
 2 keep it in your wallet usually?
 3 A. Uh-huh.
 4 MR. KELLY: Yes or no. She has a
 5 hard time knowing what "Uh-huh" means on the
 6 keyboard.
 7 THE WITNESS: Okay.
 8 A. Yes.
 9 Q. When you lost your license, what did you do?
 10 A. When I reported it, I don't know if they
 11 kept the record.
 12 Q. Who did you report it to?
 13 A. The station on Gibson Street. That's where
 14 they screwed me up, too.
 15 MR. KELLY: Answer the question,
 16 please, before I run out of here.
 17 Q. Is Gibson Street a police station?
 18 A. Gibson Street, yeah, that's a police
 19 station.
 20 Q. Do you know which police station that is,
 21 what the unit is?
 22 A. Yeah, that's regular police station. I
 23 think it's 50 Gibson Street.
 24 Q. Did you attempt to replace your license?

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1 A. Yeah.
 2 Q. How did you do that?
 3 A. I went over to the Registry, so they gave me
 4 another one.
 5 Q. Which Registry did you go to?
 6 A. The one on -- the Green Line. I'm trying to
 7 think what that station -- North Station.
 8 Q. Okay. Did you have any trouble getting a
 9 new license?
 10 A. No, I have no trouble. They had me pay a
 11 fee.
 12 Q. Right. How much was that?
 13 A. Back then it was like \$33.
 14 Q. So some years went by and eventually, I
 15 understand, you were arrested, correct?
 16 A. Right.
 17 Q. When was the first arrest after losing your
 18 identification?
 19 A. It was in 1997. I think it was March 10.
 20 Q. Had you ever been arrested before that?
 21 A. No.
 22 Q. So this was your first arrest ever?
 23 A. Right, ever.
 24 Q. Who arrested you?

Page 20

1 A. It was two white police officers. They came
 2 to my house at 523 Geneva Ave. around two
 3 o'clock.
 4 Q. Do you know the officers' names?
 5 A. No.
 6 Q. What time two o'clock, was it two in the
 7 morning or two p.m.?
 8 A. Two p.m.
 9 Q. What day of the week was that?
 10 MR. KELLY: If you remember.
 11 A. It was March 10.
 12 Q. Was it on the weekend or was it during the
 13 week?
 14 A. It was during the week, because I remember I
 15 was getting ready to go to work.
 16 Q. Do you remember the officers' names?
 17 A. No, I don't remember their names.
 18 Q. Did they tell you why they were arresting
 19 you?
 20 A. Yeah, they told me. They said "You're being
 21 arrested for distributing drugs around the
 22 neighborhood."
 23 Q. What did you say?
 24 A. I said "How is that? I've never been

Page 21

1 arrested before. I don't sell drugs."
 2 Q. Then what happened?
 3 A. They asked me for my full name and they
 4 asked me if I was born in February, and I
 5 said "No, I wasn't born in February," and
 6 they said "Well, it's your social security
 7 and it's your full name, so we have to take
 8 you to the station," and they took me to the
 9 station.
 10 Q. When you were arrested, were you in your
 11 home?
 12 A. I was in my house.
 13 Q. So they took you down to the station?
 14 A. Right.
 15 Q. What station did you go to?
 16 A. 50 Gibson Street.
 17 Q. Then what happened?
 18 A. Then he asked me what's your father's name,
 19 what's your mother's name, where do you
 20 live, and then they asked me for my name and
 21 everything about me, my identification, and
 22 then I was looking at the computer when he
 23 was typing on the computer and I saw when he
 24 took the guy that committed the crime out of

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1 the computer and he put me in. He said "We
2 got him now. Book him," and I said "Why did
3 you do that when we haven't gone to court
4 yet," and he said "Book him."
5 Q. Who was that?
6 A. It was a black police officer.
7 Q. Do you know that person's name?
8 A. No, I don't know his name.
9 Q. Now, explain to me exactly what you saw.
10 Where were you in the station?
11 A. I was where they take the photos.
12 Q. Who took your photo?
13 A. It was a black police officer.
14 Q. So he took your photo and then where did you
15 go physically in the station after that?
16 A. They locked me up.
17 Q. So they locked you up and then how did you
18 see the officer do anything with your
19 photograph?
20 A. Because where he was at, the computer was
21 like twisted a little, so I could -- I was
22 looking. It was a possibility because the
23 computer is twisted.
24 Q. How much of the screen could you see?

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1 A. It was pretty much. It was a glass screen.
2 Q. How big was the screen?
3 A. It was like half of this table.
4 MR. KELLY: This is the computer
5 screen we're talking about.
6 Q. I'm talking about the computer screen.
7 A. About that big.
8 Q. So how big would you estimate in inches?
9 A. I'm not too good in figuring out the inches.
10 Q. How about in centimeters?
11 A. Like that kind of computer.
12 Q. So now where was this officer when he
13 supposedly did this?
14 A. He was behind where they usually -- when
15 they bring in somebody is arrested, anybody,
16 that's where he was at, his normal every day
17 chair to identify people. You know what I'm
18 saying?
19 MR. KELLY: You know what a booking
20 desk is? Did it look like that? Is that
21 where he asked you the questions, he was
22 behind the desk asking you the questions?
23 THE WITNESS: Let me see. You know
24 where they arrest people and they bring

Page 24

1 them, every people that they arrest, that's
2 where they bring them.
3 Q. That's fine.
4 A. So he was behind.
5 Q. So he's behind the desk and you're in front
6 of the desk, right?
7 A. Right.
8 Q. So --
9 A. In front of the camera.
10 Q. Is he the officer that took your photo?
11 A. The black police officer.
12 Q. He took your photograph?
13 A. Right.
14 Q. Did it show up on the computer somehow?
15 A. I couldn't see -- I could see him writing
16 and then I could see the computer very
17 clearly, and I saw when he took me out of
18 the computer, very clearly.
19 MR. KELLY: You say he took you out
20 of the computer --
21 MR. FORTON: Mr. Kelly. Mr. Kelly.
22 I'm just going to ask that you ask your
23 questions at the end of the deposition. I
24 think I've given you a lot of leeway to this

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1 point.
2 MR. KELLY: I appreciate that. I
3 just don't think he's hearing you right.
4 MR. FORTON: Well, you can ask
5 whatever you want at the end of the
6 deposition. I'm not trying to pull any fast
7 ones.
8 MR. KELLY: All right.
9 Q. I'm trying to understand the physical space
10 between you and this black officer?
11 A. Okay.
12 Q. So he's behind the desk and you're in front
13 of the desk?
14 A. As far as me and you, that's how far.
15 Q. So would you say we're about five or six
16 feet away from each other?
17 A. I would say five or six feet.
18 Q. Now, you just told me that there's glass
19 between the officer and you?
20 A. Right.
21 Q. But somehow you saw around the glass to the
22 computer screen which was facing the black
23 police officer?
24 A. Right. Exactly.

7 (Pages 22 to 25)

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1 Q. Were you fingerprinted at that time?
 2 A. Uh-huh, I was fingerprinted at that time.
 3 Q. So would you -- did you consider yourself
 4 booked at that moment?
 5 A. I mean, I heard that word on T.V., when I
 6 used to watch Barretto, you know what I'm
 7 saying, but when he said "Book him", all I
 8 know is he said "We got him now, book him,"
 9 and I'm like "What?"
 10 Q. Did you have a good understanding of what
 11 was going on while you were in the police
 12 station at the time?
 13 A. The only thing I understood what he said was
 14 I was being arrested for distributing drugs
 15 around the neighborhood, and I was like "My
 16 goodness, how is that possible. I never did
 17 that."
 18 Q. Now, you've alleged that you saw your photo
 19 being replaced on the computer screen?
 20 A. Uh-huh.
 21 Q. Was there any photo there before your photo
 22 was placed there?
 23 A. There was somebody's photo. I couldn't
 24 figure out who it was.

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1 Q. You don't know who it was?
 2 A. I couldn't see who was in the computer, but
 3 the only thing I saw was when he replaced my
 4 photo with the other guy. I saw that very
 5 clearly, because I even told him, "Why you
 6 take that person out of the computer and put
 7 me in when I haven't even gone to court
 8 yet."
 9 Q. So then what happened, you spent the night
 10 in lock up?
 11 A. Right. I spent the night.
 12 Q. Were you eventually brought before the
 13 court?
 14 A. Right. They brought me to the Superior
 15 Court.
 16 Q. Was that the Suffolk Superior Court, do you
 17 know?
 18 A. It was the one right there in that plaza
 19 right there.
 20 Q. Okay. Did you have a lawyer at that time?
 21 A. Yes, I had a lawyer at that time.
 22 Q. Who was that?
 23 A. His name is -- I can't recall. I don't want
 24 to say. I'm not sure about his name.

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1 Pakowski, something like that.
 2 Q. That's fine.
 3 MR. KELLY: Do you want me to give
 4 you the name?
 5 MR. FORTON: We can get it later.
 6 Q. What happened in court?
 7 A. What happened in court? The judge asked me
 8 what's your name, dah, dah, dah, what year,
 9 what month I was born. He asked "Was you
 10 born in February?" I said "No, I wasn't
 11 born in February, I was born in November,"
 12 and I said "Judge, I've never been arrested
 13 before." So he said "You've never been
 14 arrested before?" So they went and checked
 15 the federal records. So then we -- they
 16 brought me back to the cell and then later
 17 they brought me back and my lawyer, he
 18 showed me the picture of the guy that did
 19 the crime, and he said "This guy don't even
 20 look like you," and he told me to fight the
 21 case. So then after that, years went by and
 22 they kept me in the computer.
 23 Q. So, I'm sorry, he told you to fight the
 24 case?

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1 A. Uh-huh.
 2 Q. What case was that?
 3 A. Because he was saying that I'm innocent.
 4 Q. What did the court do?
 5 A. The court, they gave me a letter -- they
 6 sent one of the people that work with them
 7 and they brought me to the records room to
 8 make sure that I got a letter.
 9 Q. So were you set free at that time?
 10 A. Right. I was set free.
 11 Q. You went and you got a letter?
 12 A. Right.
 13 Q. Where did you go to get that letter?
 14 A. It was in -- I think it was the records
 15 room. It was in the plaza right there.
 16 Q. Did someone eventually write a letter of
 17 some sort?
 18 A. In the records room. It's the only letter
 19 that they can give you. I went back and
 20 they gave me a better letter.
 21 Q. So I have in front of me a couple of
 22 different letters. I have one that's dated
 23 March 19, 1997, and I have, I think, two
 24 copies of the same letter from 1998.

8 (Pages 26 to 29)

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1 MR. FORTON: Can we mark this as
2 Exhibit No. 1, please.

3 (Letter dated 3/19/97 marked
4 Exhibit No. 1 for Identification.)

5 Q. I'm going to show you a document I just
6 marked as Exhibit No. 1. Is this a copy of
7 the letter you received then?

8 A. Yes, that was the first one.

9 Q. When did you receive this letter?

10 A. I received it on the next day from being
11 arrested.

12 Q. Could I see the letter, please?

13 MR. KELLY: If I can just make a
14 clarification. As you can see at the bottom
15 of Exhibit No. 1, it appears to be a copy of
16 his license on there, that is something that
17 came later. I'm not sure why, but the
18 original letter, I provided to you earlier,
19 and that's a copy of the original you have
20 in your left hand, so why that is on there,
21 I don't know. I think that was done later
22 to further verify who that was.

23 MR. FORTON: Why don't I, for the
24 record, mark this second letter here Exhibit

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1 No. 2 so we can clarify.

2 (Letter marked Exhibit No. 2 for
3 Identification.)

4 MR. FORTON: So Exhibit No. 2, just
5 for the record here, is a letter written by
6 Sandy Stillwell. This looks like it was
7 actually written in 1998, so I don't think I
8 have the original 1997 letter.

9 MR. KELLY: I thought you said they
10 were both the same.

11 MR. FORTON: No. I have two -- why
12 don't we mark this third letter Exhibit
13 No. 3 so that we can discuss that, as well.

14 (Letter marked Exhibit No. 3 for
15 Identification.)

16 Q. So Exhibit No. 2 is a copy of an original
17 that you've given me, and Exhibit No. 3 that
18 we've just marked looks like a better copy
19 of No. 2?

20 MR. KELLY: Correct. Just off the
21 record for a second.

22 (Discussion off the record.)

23 Q. Let me show you again, Mr. Rosa the first
24 letter we were discussing, Exhibit No. 1.

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1 Is that a copy of the letter that you
2 received after that first arrest?

3 A. Yes.

4 Q. What did that letter say, to your
5 understanding?

6 A. That letter says -- "To whom it may concern,
7 This is not the person you are looking --
8 subject to the matter" -- whatever --
9 "determined" --

10 Q. You don't have to read the letter, that's
11 fine, but what was your understanding when
12 you left with that letter from the court?
13 What did you understand it to say?

14 A. I was to carry it on person at all times,
15 that's what I understood.

16 Q. Then you were just set free after that,
17 right?

18 A. Uh-huh.

19 Q. Who was your employer --

20 A. Yes.

21 Q. -- at the time that you were arrested?

22 A. Who was my employer?

23 Q. Yes.

24 A. It was a person named Patty. I was working

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1 at the Mass. College of Arts.

2 Q. What did you do at the Mass. College of Art?

3 A. I was dish washing, and then I was to serve
4 the college students, serving the food when
5 they come for lunch.

6 Q. Okay. Did they find out that you were
7 arrested?

8 A. Yeah, they was asking me why didn't you
9 come, dah, dah, dah, what happened, dah,
10 dah, dah.

11 Q. Who was it who asked you that?

12 A. The students.

13 Q. The students?

14 A. Uh-huh.

15 Q. Did anybody that you worked for ever ask
16 you?

17 A. Yeah, my boss.

18 Q. What did you say?

19 A. I told him that I got arrested and then
20 sometimes I spoke to him about it and he
21 said "I think you're traumatized. If you
22 need help, let me know. I think you're
23 traumatized," that's what he said.

24 Q. Did you continue to work there?

9 (Pages 30 to 33)

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1 A. Yeah, I continued to work there for awhile.
 2 Q. How long did you keep working there?
 3 A. Like almost a year, something like that.
 4 Q. So you continued to work at Mass. College of
 5 Art, and were you arrested again?
 6 A. Yes.
 7 Q. When did that happen?
 8 A. That happened like maybe a year later,
 9 something like that.
 10 Q. I understand that at some point recently
 11 after that first arrest you were arrested
 12 again, is that right?
 13 A. That's correct.
 14 Q. So was it like a couple of weeks after or a
 15 year after or?
 16 A. It was something like a year after, over the
 17 same thing.
 18 Q. Do you recall being pulled over by a police
 19 officer after making an illegal u-turn?
 20 A. Yes, I recall that.
 21 Q. Was anybody in the car with you?
 22 A. Yeah, there was somebody in the car with me.
 23 There was a girl that she was working where
 24 I was working.

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1 Q. What was her name?
 2 A. Her name was Suzanne Ruggiero.
 3 Q. Ruggiero?
 4 A. Uh-huh, with a double G.
 5 Q. Where were you when you were pulled over?
 6 A. I was at the light, and then I crossed over
 7 the light, and then Suzanne Ruggiero wanted
 8 to talk to somebody, so I made a u-turn at
 9 the lights, and the police officer saw me do
 10 the u-turn.
 11 Q. What intersection was that?
 12 A. It was Geneva and Bowdoin Street.
 13 Q. What time of day was it?
 14 A. It was like 11:30, something like that.
 15 Q. 11:30 in the morning or the evening?
 16 A. In the evening, because I was giving her a
 17 ride to her house from work.
 18 Q. So did the police officer pull you over?
 19 A. Yeah.
 20 Q. Was there more than one officer or just one?
 21 A. Later other police officers came over.
 22 Q. At first when you were pulled over, was it
 23 just one officer who pulled you over?
 24 A. Yeah, it was just one officer.

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1 Q. Do you know who the officer was?
 2 A. It was a white police officer, that's all I
 3 know. Kind of an old man.
 4 Q. So what did he say to you?
 5 A. He asked me for my registration and then
 6 another police officer came by and he told
 7 the girl I was driving "What are you doing
 8 with a guy like that?"
 9 Q. So what happened after you were pulled over?
 10 A. After I was pulled over, they towed my car
 11 and they brought me to jail.
 12 Q. Why did they do that?
 13 A. Because of the warrant.
 14 Q. At that time, did you have the letter in
 15 your possession?
 16 A. Yeah, I had the letter in my possession.
 17 Q. Is that the letter, Exhibit No. 1, right
 18 there?
 19 A. Yeah.
 20 Q. Did you show the letter to the police
 21 officers?
 22 A. Yes, I did.
 23 Q. What did the police officers do after they
 24 saw the letter?

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1 A. They looked at the computer and they said
 2 "You're wanted for a warrant."
 3 Q. When you say they looked at the computer,
 4 what did you actually see them do?
 5 A. I didn't see, I heard.
 6 Q. So did they tell you that they checked the
 7 computer and there was a warrant for your
 8 arrest?
 9 A. They didn't tell me they checked the
 10 computer, they just tell me he has a
 11 warrant.
 12 Q. So someone said there's a warrant for your
 13 arrest, right?
 14 A. Right.
 15 Q. And they said "We're going to have to take
 16 you down to the station," right?
 17 A. Right.
 18 Q. So did you get into the police car with
 19 them?
 20 A. Right.
 21 Q. Where did Suzanne Ruggiero go?
 22 A. She went to her man's house.
 23 Q. So she left the scene there?
 24 A. Right.

10 (Pages 34 to 37)

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1 Q. So you were taken downtown -- I'm sorry, to
 2 the station?
 3 A. They did sometimes, too.
 4 Q. I'm sorry?
 5 A. Other times they brought me to downtown.
 6 Q. Okay. Where did you go on this arrest?
 7 A. That one, I went to 50 Gibson Street.
 8 Q. What happened at the station when you got
 9 there?
 10 A. Not much at that one. They just locked me
 11 up.
 12 Q. Did they book you, did they fingerprint you?
 13 A. Yeah, they fingerprint me.
 14 Q. Did they take any photos of you?
 15 A. Yeah.
 16 Q. So you were locked up again?
 17 A. Right.
 18 Q. Then the next day, did you go to --
 19 A. I went before the same judge.
 20 Q. Who was that, by the way?
 21 A. I don't know if his name is Sandy or
 22 something.
 23 MR. KELLY: If you know.
 24 A. I'm not too sure. I remember him, but if

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1 he's the one who signed the letter, the name
 2 right here.
 3 Q. Did you have a lawyer after this arrest?
 4 A. After this arrest, I had the same lawyer,
 5 but I didn't see him.
 6 Q. So, I'm sorry, so you had the same lawyer as
 7 the first arrest?
 8 A. Right.
 9 Q. But you said you didn't see him?
 10 A. No, I didn't see him. I showed him the
 11 letter, I still had this letter, and I told
 12 the judge, "Judge, I remember this is the
 13 same case," and he shook his head. That was
 14 like the second time I went before him. I
 15 went three times before him.
 16 Q. So what did the Court do after you showed
 17 him the letter?
 18 A. The Court, they just let me go.
 19 Q. Do you remember the Court saying anything to
 20 the prosecutor?
 21 A. The Court?
 22 Q. I'm sorry, when I say "the Court", I mean
 23 the judge or whoever was on the bench at the
 24 time.

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1 A. He was talking to me.
 2 Q. He didn't say anything to anybody else?
 3 A. No. Not that I know of.
 4 Q. So you were set free after this arrest?
 5 A. Right.
 6 Q. If I said that you were arrested on the 23rd
 7 of March, 1997, would that refresh your
 8 recollection, that was about two weeks after
 9 the first arrest?
 10 A. Well, on the first arrest, he told me that I
 11 had to come back, so I was told that I had
 12 to come back, "If you don't come back,
 13 that's going to look like you did it," so I
 14 made sure I came back.
 15 Q. When did you go back?
 16 A. It was about two weeks later.
 17 Q. So after these two arrests, were you
 18 arrested again?
 19 A. Yes.
 20 Q. When did that happen?
 21 A. That happened about a year later. They
 22 arrested me seven times, only three times
 23 they let me go the same night, that's what
 24 happened.

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1 MR. FORTON: Let me just have a
 2 minute here.
 3 (Discussion off the record.)
 4 (Recess.)
 5 Q. So the records I had, I think we might be
 6 able to straighten this out, I had thought
 7 earlier that when you were pulled over at
 8 Geneva and Bowdoin that that was March 23 of
 9 1997, but I think it was in 1998, about a
 10 year or so after you were first arrested?
 11 (Witness nods.)
 12 Q. Okay. So on the 23rd of March, you hadn't
 13 been arrested again, you just went back to
 14 court as you were ordered to do after you
 15 were first arrested, right?
 16 A. Correct.
 17 Q. So you went back on the 23rd in order to
 18 clear your name, right?
 19 A. Exactly.
 20 Q. Now, you mention that when you were pulled
 21 over after the u-turn, right before the
 22 second arrest, that your car was taken away.
 23 Do you know where it was taken?
 24 A. It was taken, I think that's 1320 Dorchester

11 (Pages 38 to 41)

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1 Ave.
 2 Q. Is that a tow lot of some kind?
 3 A. Right, it's a tow lot.
 4 Q. So when you were released by the Court, did
 5 you go pick your car up?
 6 A. Yes, I did.
 7 Q. Did it cost you anything to go pick up the
 8 car?
 9 A. Yeah, they charged me like \$95 per day, but
 10 I went in the next day.
 11 Q. Do you have any receipt for the money that
 12 you paid?
 13 A. No.
 14 Q. What was the license plate of the car that
 15 you were driving?
 16 A. I don't remember the license plate.
 17 Q. What kind of car was it?
 18 A. It was an Oldsmobile.
 19 Q. What year was it?
 20 A. I think it was '89.
 21 Q. What color was it?
 22 A. It was red.
 23 Q. Do you know the model?
 24 A. Oldsmobile.

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1 Q. Oldsmobile is the maker, do you know the
 2 kind of Oldsmobile?
 3 A. I don't know. It was an electric car.
 4 Q. Did you own this car?
 5 A. Yeah, it was mine.
 6 Q. How long had you owned it?
 7 A. I owned it for like a year, something like
 8 that.
 9 Q. It was registered with the Commonwealth?
 10 A. Right here in North Station.
 11 Q. So you did register the car?
 12 A. Right.
 13 Q. So I have in your records, at some point you
 14 were brought before the Dorchester District
 15 Court, is that right?
 16 A. One time, right.
 17 Q. Was that after you were picked up after the
 18 u-turn?
 19 A. No, that was something different.
 20 Q. So when was it that you were before the
 21 Dorchester District Court?
 22 A. That was in the year 2000. That time. It's
 23 in Spanish, but I don't know if you can tell
 24 the year. (Indicating.)

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1 Q. So this that you just showed me is some sort
 2 of a certificate of completion from Boston
 3 ASAP?
 4 A. Right, because they charged me for drinking.
 5 Q. I see.
 6 A. For drinking and driving.
 7 Q. We'll get to that later. Let me quickly
 8 make a copy of this.
 9 (Recess.)
 10 (Certificate of Completion marked
 11 Exhibit No. 4 for Identification.)
 12 Q. So Exhibit 4, which you just handed me, this
 13 is a copy of what you handed me. It's a
 14 Certificate of Completion of some kind of
 15 counselling in Spanish?
 16 A. Right.
 17 Q. Great. So it was in -- so you went to
 18 Dorchester District Court after you were
 19 charged with operating under the influence
 20 of alcohol, right?
 21 A. Right.
 22 Q. We'll talk about that later. So in 1998
 23 when you were before the Suffolk Superior
 24 Court after the arrest where you were picked

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1 up after you made the illegal u-turn, did
 2 you receive another letter of any kind from
 3 the Court or anybody?
 4 A. Not at that time.
 5 Q. Because I have these two documents here,
 6 Exhibits 2 and 3 right here. Exhibit 2 is a
 7 copy of an original of a letter that it
 8 looks like you carried around for a long
 9 time in your wallet, is that right?
 10 A. Right. This is that one that I was
 11 carrying.
 12 Q. Your attorney clarified for me that Exhibit
 13 No. 3 is a copy of the same letter that he
 14 got from the probation officer who wrote the
 15 letter, is that right?
 16 A. Yeah, that's correct.
 17 Q. So now, when did you receive these -- well,
 18 I'll call it "this" letter, because it's
 19 essentially the same letter?
 20 A. When did I receive this letter?
 21 Q. Yes.
 22 A. This letter, I received it in 2001.
 23 Q. Why don't we take a look at the exhibit.
 24 MR. KELLY: Let's take a look at

12 (Pages 42 to 45)

Page 46

1 the date.
 2 Q. The date of the letter is 12 March 1998.
 3 A. That's what it says.
 4 Q. Yes. So if you received this on 12 March
 5 1998, you probably did receive a letter of
 6 some kind after arrest No. 2 in 1998?
 7 A. Right, because they gave me from this one to
 8 this one.
 9 Q. Hold on. You just pointed to Exhibits 2 and
 10 3. Exhibits 2 and 3 are the same letter.
 11 Exhibit 1 is the first letter and Exhibits 2
 12 and 3 are the second letter, right?
 13 A. Right.
 14 Q. So you're saying in 1998 someone at the
 15 probation office wrote another letter for
 16 you, right?
 17 A. Uh-huh.
 18 MR. KELLY: Do you see the date of
 19 this letter?
 20 THE WITNESS: Yeah, March 19.
 21 MR. KELLY: You see the date of
 22 this letter?
 23 MR. KELLY: Yeah.
 24 MR. KELLY: He's asking which one

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1 do you remember getting first?
 2 A. This one was not first.
 3 Q. So you received Exhibit 1 first, right?
 4 A. Right.
 5 Q. Then after your second arrest, you received
 6 Exhibit 3?
 7 A. Right.
 8 Q. So now, eventually, you were arrested again
 9 in connection with this same warrant, right?
 10 A. Right.
 11 Q. Do you remember when that was?
 12 A. I don't remember the year. It was when I
 13 was working for doing food delivery. I was
 14 on Melville Street trying to take a left,
 15 and it was dark over there, there was no
 16 lights, and then there was a car coming, and
 17 then I went before him, even though I saw
 18 him, I just tried to go before him, and the
 19 police officer put the light on, he felt
 20 like I cut him off, so then he said "You got
 21 a warrant." I had another car at that time.
 22 I don't remember the name of the car.
 23 Q. When you were pulled over then, did you
 24 spend the night in jail again?

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1 A. That time, I don't think I spent the night,
 2 they let me go.
 3 Q. I'm trying to focus on the times where you
 4 had to go to court afterwards, and so far I
 5 have that down to three arrests. This third
 6 arrest I'm asking you about happened in
 7 January of 2001, do you recall that?
 8 A. 2001, yeah.
 9 Q. So in January of 2001, you were arrested
 10 again?
 11 A. Right.
 12 Q. Do you remember what time of day that was?
 13 A. I can't remember the time of the day. All I
 14 know is I remember being before the judge.
 15 Q. Well, let's wait to talk about the judge.
 16 I'll definitely get to that. I'll guaranty
 17 you. Do you remember, was it in the
 18 daytime, was it in the nighttime?
 19 A. It was in the nighttime.
 20 Q. Where were you when you were arrested?
 21 A. I was working for East Coast Restaurant.
 22 Q. Where were you exactly when you were
 23 arrested?
 24 A. I was on Alston Street in Dorchester.

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1 Q. Is that near your home?
 2 A. Pretty much, yeah.
 3 Q. Was anybody with you at that time?
 4 A. No.
 5 Q. When you were arrested, was anybody around?
 6 A. No.
 7 Q. What did the police officer say to you?
 8 A. He said that I cut him off and I got a
 9 warrant.
 10 Q. So did he know right away that there was a
 11 warrant for your arrest?
 12 A. He took my registration and my license.
 13 Q. He went back to his car?
 14 A. He went back to his car.
 15 Q. Then he came back to your car and said
 16 there's a warrant out for your arrest?
 17 A. Right.
 18 Q. What did you do?
 19 A. I said "But I have a letter right here."
 20 Q. Did you show him the letter?
 21 A. Yeah.
 22 Q. What did he say?
 23 A. He said that letter, he could write that
 24 letter at home.

13 (Pages 46 to 49)

<p style="text-align: right;">Page 50</p> <p>1 Q. Did he say he didn't want to take any 2 chances? 3 A. That was another time. 4 Q. When was it that a police officer said that? 5 A. That was -- this was in the daytime, they 6 brought me to another station. 7 Q. So let's go back to the January 17 arrest. 8 So were you taken down to the station again? 9 A. Right. 10 Q. Were you booked again? 11 A. No. The only time they used the word booked 12 and we got him now was the first time I was 13 arrested. 14 Q. So you were taken down to the station this 15 third time and what happened at the station? 16 A. They locked me up. 17 Q. Did they acknowledge that you were there at 18 all, did they take your photo, did they do 19 anything? 20 A. They took my photo. They had me take my 21 pants down and show them my booty, and that 22 was so embarrassing, but anyway. 23 Q. So you were locked up again? 24 A. Uh-huh.</p>	<p style="text-align: right;">Page 52</p> <p>1 spent the night in the lock up and then you 2 were taken to court the next day? 3 A. Right. 4 MR. FORTON: Let's go off the 5 record. 6 (Discussion off the record.) 7 Q. Your lawyer just clarified for me that you 8 were taken to Roxbury District Court first 9 on that day afterward? 10 A. Right, they brought me to the station at 11 Roxbury. They -- I went in to the store. I 12 bought a soda. He pulled out of nowhere, 13 this was in the daytime, and he pulled over 14 and he said "What are you doing right 15 there," and I had my car right there because 16 I was working at East Coast at that time, I 17 had my car pulled over, and I went into the 18 store to buy something and I went around the 19 corner, and then I guess that's a hot street 20 or something, but there's a corner store 21 over there to buy a soda, and then I -- he 22 just pulled over out of nowhere "What are 23 you doing over there?" He told me "Have you 24 been arrested before, because you're already</p>
<p style="text-align: right;">Page 51</p> <p>1 Q. Do you remember the officer's name, the one 2 who arrested you? 3 A. No. I only remember the first ones face, 4 the first time ever. I don't remember his 5 name. 6 Q. Were you brought before the Court the next 7 day? 8 A. Uh-huh. 9 MR. KELLY: Yes. 10 A. Yes. 11 Q. What happened when you were there? 12 A. Nothing. I just spent the night in jail. 13 Q. But when you went to court, what happened 14 when you went to court in 2001? 15 A. The one in 2001, that happened at another 16 street. I was brought to Roxbury. 17 Q. Let's -- I think you may be a little 18 confused here. Hold on. Let me clarify 19 this. In January 17 of 2001? 20 A. Right. 21 Q. You were arrested? 22 A. Right. That was the last time. 23 Q. So this is 2001, this is the one we're 24 talking about, that was the last time you</p>	<p style="text-align: right;">Page 53</p> <p>1 going to jail anyway, because I got you 2 right here," so I said "Yeah, I've been 3 arrested before over a warrant over the same 4 station," so when he brought me to the 5 station, he said "I got to take you. It's 6 you in the computer. I can't take no 7 chances." 8 Q. Why did he arrest you? 9 A. Because of the warrant. 10 Q. So let me try to clarify. We were just 11 talking as though the January 17, 2001 12 arrest was for cutting off a police officer 13 in your car? 14 A. Right, that was at nighttime. 15 Q. So that's a different time, right? 16 A. Right. 17 Q. So let's talk about the January 17, 2001 18 arrest. Okay? So the January 17, 2001 19 arrest happened after you bought a soda at 20 the corner store, right? 21 A. Right. 22 Q. Where were you when you were arrested, in 23 front of the store? 24 A. On the side of the store.</p>

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1 Q. So you were on the side of the store?
 2 A. Right.
 3 Q. What's the address of the store?
 4 A. That's on the corner of Bernard Street and
 5 Hover Street.
 6 Q. So you were brought to the court the next
 7 day, right, after you were arrested?
 8 A. Correct.
 9 Q. What court was that?
 10 A. That was the Superior Court.
 11 Q. Okay. Well, your attorney told me that
 12 first you were taken to the Roxbury District
 13 Court and then you were transferred over to
 14 the Superior Court. Does that make sense?
 15 A. I don't remember. I spent the night in jail
 16 in Roxbury.
 17 Q. That's fine. At some point, you did end up
 18 in Superior Court, right?
 19 A. Right.
 20 Q. Did you have a lawyer when you got there?
 21 A. Yeah, I had a different lawyer.
 22 Q. Who was that lawyer?
 23 A. I don't know his name.
 24 Q. If I told you that that lawyer is sitting

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1 right next to you right now, would that
 2 refresh your recollection?
 3 A. He was my lawyer in 2001.
 4 Q. Right, that's what we're talking about right
 5 now.
 6 MR. KELLY: That's what we're
 7 talking about. January 18 in Superior
 8 Court, he's asking you do you remember what
 9 lawyer the court appointed to you.
 10 THE WITNESS: Okay.
 11 MR. KELLY: Do you remember who
 12 that person is?
 13 THE WITNESS: Arthur Kelly.
 14 Q. He's your attorney now in this case?
 15 A. Right.
 16 Q. Mr. Kelly was in court at the time, is that
 17 right?
 18 A. Right.
 19 Q. Did the court appoint him to represent you?
 20 A. Right.
 21 Q. Had you ever met Mr. Kelly before in your
 22 lifetime?
 23 A. No, that was the first time ever.
 24 Q. Okay. Good. So tell me what happened in

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1 court after Mr. Kelly was appointed to
 2 represent you?
 3 A. What happened in court, it was Channel 7 was
 4 over there and --
 5 Q. Hold on, let's just talk about what happened
 6 in court.
 7 A. I know, that's what I'm saying.
 8 Q. Channel 7 was in court?
 9 A. Right.
 10 Q. Why were they in court?
 11 A. It was different totally -- a different
 12 case.
 13 Q. Okay.
 14 A. So I told the judge this is the same case,
 15 and they took me for "book him" and the
 16 judge said "I can't believe they took you."
 17 Q. I'm sorry, they took you for what?
 18 A. For book him. I said the police officer,
 19 the first time, that they brought me to the
 20 station, so I told him -- I told the judge,
 21 I said "We got him now. We took him for
 22 book him."
 23 Q. I'm sorry?
 24 MR. KELLY: Pronounce that word a

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1 little better.
 2 A. Book him.
 3 Q. Booking?
 4 A. Booking.
 5 Q. Booking with an I-n-g?
 6 A. Yeah, I always say "book him".
 7 Q. So the judge in Superior Court in 2001, what
 8 did he say to you?
 9 A. He asked me did I have the letter with me,
 10 and I said yes, I did, I had the letter with
 11 me.
 12 Q. And what did you do?
 13 A. I showed him the letter.
 14 Q. Which letter did you show him?
 15 A. I don't remember.
 16 Q. If I show you Exhibit No. 1 and Exhibit
 17 No. 3, do you remember was it either of
 18 these letters?
 19 A. It was either one, yeah.
 20 Q. It was one of these two, though?
 21 A. Right. Because I think in 2001 he gave me,
 22 the judge gave me another letter, but I
 23 can't recall where I put it, but I know that
 24 they gave me those definitely, because other

15 (Pages 54 to 57)

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1 times I went to the records room.
 2 Q. So at some point, did the Court determine
 3 that you were not the person in the
 4 indictment?
 5 A. Right.
 6 Q. So the warrant didn't apply to you?
 7 A. Exactly.
 8 Q. What happened after the Court made that
 9 determination?
 10 A. In 2001?
 11 Q. Yes.
 12 A. What happened was that he said, the judge
 13 said he's going to make sure that this
 14 doesn't happen again, and he was talking
 15 about compensation. He said what am I going
 16 to do with that, because I told him, first
 17 I'm going to help myself before I help
 18 others, and I don't know what to say, that's
 19 what I told him. And he said "Okay, I'm
 20 going to give him a good lawyer. I'm going
 21 to make sure that this doesn't happen
 22 again."
 23 MR. KELLY: Off the record. I'm
 24 going to strike that last remark but.

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1 (Discussion off the record.)
 2 MR. FORTON: Back on.
 3 Q. So your attorney just cleared up for me that
 4 you were never before a judge in the
 5 Superior Court until after this third
 6 arrest? You were always before clerk
 7 magistrate Gary Wilson?
 8 A. Right.
 9 Q. That person was always wearing a suit,
 10 right, and not a black robe?
 11 A. The judge, right?
 12 Q. Yeah, the person on the bench.
 13 A. Yeah.
 14 Q. So it's not too important, but just to
 15 clarify. So after that hearing, did you go
 16 free?
 17 A. Yeah.
 18 Q. So you were free?
 19 A. Right.
 20 Q. And then did your lawyer do anything for you
 21 after that?
 22 A. He brought me to his office, Arthur Kelly.
 23 Q. But later on, there was another hearing,
 24 right, with a judge in a black robe?

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1 A. Yeah, there was another one.
 2 Q. So a couple of weeks later, right?
 3 A. Something like that.
 4 Q. You went there and what did your lawyer ask
 5 the Court to do?
 6 A. Ask him to -- she asked him to --
 7 Q. No, no. What did your lawyer ask the judge
 8 to do?
 9 A. My lawyer told them that I was told before
 10 they're going to take him out of the
 11 computer and they never did, and the judge
 12 said "No, this time we're going to do it."
 13 Q. So after that hearing in February of 2001,
 14 were you ever arrested again in connection
 15 with this warrant?
 16 A. No.
 17 Q. So as far as you know, everything is cleared
 18 up?
 19 A. Right.
 20 Q. Now, so far we've discussed three different
 21 arrests where you spent the evening in the
 22 lock up?
 23 A. Right.
 24 Q. That was the March 10, 1997 arrest and the

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1 March 11, 1998 arrest and then the
 2 January 17, 2001 arrest, correct?
 3 A. Correct.
 4 Q. You mentioned in your Answers to
 5 Interrogatories that your lawyer sent to me
 6 that you were arrested seven different times
 7 in connection with this warrant?
 8 A. Correct.
 9 Q. So tell me when the other four times were.
 10 A. One time I was smoking a cigarette in the
 11 station.
 12 Q. What station is that?
 13 A. Outside Downtown Crossing.
 14 Q. When did this happen?
 15 A. That happened -- it happened before 2001.
 16 Q. Did it happen after 1998?
 17 A. I don't know if it was in 1998, but it was
 18 like before 2001, so the warrant appeared
 19 again. He was going to just give me a
 20 citation.
 21 Q. Hold on. So you're smoking in front of
 22 Downtown Crossing?
 23 A. Right.
 24 Q. And tell me what happened.

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1 A. There was two police officers over there.
 2 Q. Uh-huh.
 3 A. That was in 2000, because I was coming from
 4 school, that school, the letter I just gave
 5 you.
 6 Q. Yes, you were coming from your alcohol
 7 counselling?
 8 A. Right, I was coming from over there.
 9 Q. You were smoking a cigarette in front of the
 10 Downtown Crossing Station?
 11 A. Right, like downstairs.
 12 Q. Tell me what happened next.
 13 A. There was two police officers, and he was
 14 going to charge me for citation.
 15 Q. What was he going to cite you for?
 16 A. What was he going to what?
 17 Q. He was going to give you a citation. Why
 18 was he going to give you a citation?
 19 A. For smoking a cigarette.
 20 Q. Inside the station?
 21 A. Right, even though I wasn't inside, but I
 22 was near, so then my warrant came up, and he
 23 had no choice but to bring me somewhere in
 24 downtown, and then I had to wait -- I was

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1 getting ready to go to work, I was rushing
 2 to go to work, working at East Coast
 3 Restaurant, which that's at 1456 Dorchester
 4 Ave., and the employer's name is Hung Chu
 5 Chan, and the manager is Dwight Brown. He
 6 speaks better English because Hung Chu Chan
 7 is Chinese. So anyway, they brought me to
 8 the station, so I lost my day of work, and
 9 then I had to wait for somebody to figure
 10 out the document and then they let me go.
 11 Q. Okay. So you showed them one of the
 12 documents, either Exhibit 1 or 2 or 3?
 13 A. One of them.
 14 Q. Eventually, they just let you go, right?
 15 A. Right.
 16 Q. So you didn't spend the night in jail or
 17 anything?
 18 A. No.
 19 Q. You didn't have to go to court or anything?
 20 A. Not that time.
 21 Q. So you were gone -- what time in the morning
 22 were you arrested?
 23 A. It was about five o'clock, something like
 24 that. Five o'clock in the afternoon.

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1 Q. What time were you set free?
 2 A. I was set free around like nine, 9:30.
 3 Q. Were you working in the evening at that
 4 time?
 5 A. Right, exactly.
 6 Q. So let's talk about one of the other times
 7 that you were picked up but didn't have to
 8 go to court. So one time was this smoking
 9 in front of Downtown Crossing. What was
 10 another time?
 11 A. I'm trying to recall.
 12 Q. I can give you as much time as you need.
 13 A. There was another time I was driving, I was
 14 doing food delivery, and the police officer
 15 felt like I didn't stop correctly on the
 16 stop sign, so he said there was something
 17 funny about the stop sign you did. He asked
 18 me if I was drinking, and I told him no,
 19 because I was working. Back then I was a
 20 little bit sick or something, I don't know,
 21 so.
 22 Q. Did the police officer ask you for your
 23 registration?
 24 A. Right.

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1 Q. For your license?
 2 A. Right.
 3 Q. Then did he go back to the police car?
 4 A. Right. He went back to the police car, but
 5 he didn't arrest me. He said "This time
 6 I'll give you a break, this time, but that
 7 letter, I don't know about that letter."
 8 Q. Did you ever give him a copy of either of
 9 the letters we've been discussing?
 10 A. Right. No, I didn't -- well, the only time
 11 I gave him a copy and he didn't take it, the
 12 only time I gave them a copy was when they
 13 came to my house after work.
 14 Q. Let's go on. So you were never taken to the
 15 police station after this, after this
 16 instance where the police officer pulled you
 17 over because you didn't stop, right?
 18 A. No.
 19 MR. KELLY: When was this, do you
 20 know? Do you remember?
 21 THE WITNESS: That was before 2001,
 22 that's all I know. I was going through all
 23 this stuff. I can't remember everything.
 24 Q. We'll get to what you were going through,

17 (Pages 62 to 65)

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1 but you what were you going through at the
 2 time?
 3 A. I was working. I was doing food delivery.
 4 Q. Was food delivery the work you were doing or
 5 were you doing other working?
 6 A. No, at that time, I was doing food delivery.
 7 Q. So you were going through that. What else
 8 were you going through?
 9 A. Watch out for the police because of the
 10 warrant and explaining to my family. I had
 11 to get away from my father's face.
 12 Q. So let's talk about another time where you
 13 were arrested or taken to the police station
 14 or, you know, taken from where you were
 15 because of the warrant?
 16 A. Uh-huh.
 17 Q. Because it sounds like this time we just
 18 discussed, the warrant issue didn't come up?
 19 A. No, it did come up, but the only thing is
 20 that because of that letter, he let me go.
 21 Q. So you showed him the letter that time?
 22 A. Right. He said that letter -- he said "I
 23 could write that letter in my house, but you
 24 know what, I'll give you a break this time."

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1 Q. So you were let go. So now were there any
 2 other times where you were taken to a police
 3 station or anything like that because of the
 4 warrant?
 5 A. I'm pretty sure, yeah, but I can't remember
 6 everything.
 7 Q. Okay. That's fine. You testified in your
 8 Interrogatories that you were not physically
 9 harmed at all during any of the arrests or
 10 confinements, is that correct?
 11 A. Well, there's only one time, the one in
 12 Downtown Crossing. I was yelling like a dog
 13 in front of the people, and there was people
 14 yelling "What'd he do? He robbed somebody?"
 15 And then the police officer said "Put your
 16 hands up." I did not like that he was
 17 screaming at me like a dog.
 18 MR. KELLY: Do you understand the
 19 question?
 20 THE WITNESS: Yeah.
 21 Q. You weren't physically harmed?
 22 A. No, not physically harmed.
 23 Q. You also testified that you didn't receive
 24 any medical treatment in connection with the

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1 arrest, is that right?
 2 A. Right.
 3 Q. You never sought the treatment of a
 4 psychiatrist or psychologist or social
 5 worker because of this?
 6 A. Right.
 7 Q. You don't have any permanent disabilities,
 8 right?
 9 A. No.
 10 Q. You're making a claim for emotional damages,
 11 right?
 12 A. Yeah, most likely.
 13 Q. Tell me how you've been emotionally damaged.
 14 A. My family is big and every time we get
 15 together and my nephew ask me about the case
 16 and then somebody come over and start
 17 listening and I wish this person didn't have
 18 to know what I'm talking about.
 19 Q. Who is your nephew?
 20 A. His name is Eduardo, Eduardo Fernandez.
 21 Q. Does he live at Geneva Ave. with you?
 22 A. No, he lives somewhere in Quincy.
 23 Q. Tell me how else you've been emotionally
 24 damaged.

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1 A. Every time I go visit my family, "Hey, how's
 2 that case coming."
 3 Q. So you have to talk to your family about the
 4 case?
 5 A. Yeah.
 6 Q. Are you emotionally damaged in any other
 7 way?
 8 A. I don't think so.
 9 Q. So we were discussing before that you were
 10 arrested for operating your car under the
 11 influence, is that correct?
 12 A. That was only one time.
 13 Q. Do you remember when that happened when you
 14 were arrested?
 15 A. That happened in the year 2000.
 16 Q. My records show that it happened in March of
 17 1999, does that --
 18 A. Maybe it was close to the year or something.
 19 Q. What time of day was it when you were
 20 arrested?
 21 A. It was like about two o'clock, three o'clock
 22 in the morning.
 23 Q. Do you remember where you were when you were
 24 arrested?

18 (Pages 66 to 69)

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1 A. Right, I was driving through --(inaudible)--
 2 because the girl I was giving a ride, she
 3 lives in Lowell, so I was giving her a ride
 4 to her house.
 5 Q. Who was that girl?
 6 A. That was Jaime Kirby.
 7 Q. So you were driving up to Lowell?
 8 A. Right, but we were following somebody to the
 9 highway and we didn't know which way he
 10 went, so we were driving around looking for
 11 them, and then she -- well, I have to say I
 12 did it, because they blame it on me.
 13 Q. So you were driving the car, right?
 14 A. Actually, I wasn't driving the car. I let
 15 her drive the car, but they charge me for
 16 it.
 17 Q. When you were pulled over, did the police
 18 officer come up to the car?
 19 A. The police officer didn't come until about
 20 ten minutes.
 21 Q. So you sat at the side of the road with a
 22 police officer behind you for about ten
 23 minutes?
 24 A. Well, a bunch of people came out after the

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1 accident, and I told them to call the
 2 police.
 3 Q. Tell me what kind of accident happened.
 4 A. She was driving and hitting about five cars
 5 or something.
 6 Q. Did she sideswipe the cars?
 7 A. Yeah, that's what she did. I told her to
 8 stop, let me drive, and she wouldn't stop.
 9 Q. So were you arrested after the accident?
 10 A. Right, the police officer, they came up to
 11 me. He said "You got a warrant, we got to
 12 take you," and he said he brought me to
 13 Dorchester District Court.
 14 Q. First, he took you to the police station,
 15 right?
 16 A. Yeah.
 17 Q. Eventually, you were charged with operating
 18 under the influence, correct?
 19 A. Correct.
 20 Q. Had you been drinking?
 21 A. Yeah.
 22 Q. So you went to the police station and did
 23 they book you there, did they take your
 24 photo?

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1 A. They only took my photo.
 2 Q. Did you spend the evening in lock up again?
 3 A. Right.
 4 Q. Did you go to a court after that, the next
 5 morning?
 6 A. Right, to that one I went to Dorchester
 7 District Court.
 8 Q. You went to the court and you were
 9 arraigned, I guess?
 10 A. I went to the court and she looked at the
 11 letter, the judge looked at the letter, and
 12 she said "Okay, I'll keep a copy of this,"
 13 and she was very interested.
 14 Q. Do you remember who the judge is?
 15 A. It was a lady.
 16 Q. What was done about your OUI charge?
 17 A. What does that mean, "OUI".
 18 Q. I'm sorry, Operating Under the Influence.
 19 A. They suspended my license.
 20 Q. Did you have a trial or anything?
 21 A. No.
 22 Q. Did you plead guilty at some point?
 23 A. They gave me a year probation because the
 24 other people didn't show up.

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1 Q. So -- let's go off the record.
 2 (Discussion off the record.)
 3 Q. So at some point you -- were you put on
 4 probation?
 5 A. Right. One year probation.
 6 Q. And your license was suspended?
 7 A. My license was suspended.
 8 Q. How long was it suspended?
 9 A. Ninety days, I think it was.
 10 Q. Did you drive while your license was
 11 suspended?
 12 A. No. That's when I had to go to school.
 13 Q. So did the Court order you to go to some
 14 kind of a training program?
 15 A. The one that I just showed you.
 16 Q. So Exhibit No. 4 is a certificate that says
 17 that you finished that training or
 18 counselling?
 19 A. Correct.
 20 Q. How many hours did you have to spend in this
 21 course?
 22 A. It was about like from four to six, or maybe
 23 seven.
 24 Q. How many times did you have to go?

19 (Pages 70 to 73)

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1 A. I think it was like three days a week,
 2 something like that.
 3 Q. How many weeks?
 4 A. That was about like four months, something
 5 like that.
 6 Q. So this certificate is in Spanish, right?
 7 A. Yeah.
 8 Q. Was the course done in Spanish?
 9 A. Right.
 10 Q. Did you understand everything that was going
 11 on?
 12 A. Right. You got to make sure you don't go
 13 over there with alcohol on you.
 14 Q. That makes good sense, right?
 15 A. Right.
 16 Q. First of all, do you speak fluent Spanish?
 17 A. Yes, I do. I speak three languages.
 18 Q. What's the third language?
 19 A. Cape Verdean.
 20 Q. Interesting. How did you learn Cape
 21 Verdean?
 22 A. Because the neighbors, when I was 11, they
 23 talk pretty much in Spanish, so then when I
 24 was working at the newspaper, there was

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1 somebody who spoke Cape Verdean, and so then
 2 I learned how to pronounce the way they
 3 talk, and then when I was going to school, I
 4 was listening to them, so it's been years.
 5 Q. Now, other than the arrest in 1999 for
 6 operating under the influence, were you
 7 arrested at any other time?
 8 A. Well, all I remember, I always counted every
 9 time I was arrested. It was seven times,
 10 but I can't recall every time.
 11 Q. Do you remember being arrested in November
 12 of 2001?
 13 A. Yeah.
 14 Q. Why were you arrested in November of 2001?
 15 A. Because I was -- the police officer came out
 16 of nowhere flying, and he looked at me and
 17 said "What are you doing over there," and I
 18 was just drinking a soda.
 19 Q. I think we discussed that, but I'm talking
 20 about an arrest that happened after the
 21 warrant was cleared up in court?
 22 A. After the warrant was cleared up?
 23 Q. Do you remember being arrested for stealing
 24 a car?

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1 A. No, I never stole a car.
 2 Q. Well, there is a record of an arrest in
 3 November of 2001 for stealing a car and
 4 larceny, or stealing some money, between \$50
 5 and \$250. Do you recall any of that?
 6 A. No, I never stole any money.
 7 Q. Do you remember your employer at the time,
 8 Mr. Brown, pressing any charges against you
 9 for stealing a car?
 10 A. That time, he falsely accused me because he
 11 was jealous of his girl -- the guy that was
 12 driving the car, he handed me the key,
 13 because I was working over there. He hand
 14 me the key until he went to China, and then
 15 when he went to China, while he was in
 16 China, I was taking the car home. He went
 17 over there for about a month.
 18 Q. Who was it that went to China?
 19 A. The name Bobby. One of the guys that work
 20 at East Coast Restaurant.
 21 Q. Was this Bobby's car?
 22 A. This is Bobby's car, right.
 23 Q. This is Bobby's car that he owned
 24 personally?

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1 A. He owned personally.
 2 Q. Did Bobby give you the keys?
 3 A. Right, that was the car I was driving.
 4 Q. What's Bobby's last name?
 5 A. His last name, I can't recall. All I know
 6 is they call him Bobby.
 7 Q. So Bobby gave you the keys to his car?
 8 A. Right.
 9 Q. What kind of car was it?
 10 A. The kind of car it was -- it was a strange
 11 car, like a racing car or something. So the
 12 guy, his name is Dwight Brown, he was
 13 working over there and he was giving me a
 14 hard time, I didn't like the way he was
 15 talking to me, so I told him "Listen, I
 16 don't like the way you're talking to me. If
 17 you keep talking to me like that in front of
 18 the customers, I'm going to leave," so
 19 that's exactly what I did, I left, and I
 20 called the owner and I told him "Listen,
 21 send somebody else to work for me," so I
 22 left, and then the next day I returned the
 23 car safely. I left it at the parking lot of
 24 the Grover Cleveland, because other time, I

20 (Pages 74 to 77)

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1 worked for them for years, sometimes it's so
2 late that you have to go home with the money
3 and come back and pay, you know what I'm
4 saying, so that was -- he wanted to screw me
5 up, because he was jealous of his girlfriend
6 and me, because his girlfriend and me
7 were -- we were friends.

8 Q. What was his girlfriend's name?

9 A. Suzanne Ruggiero.

10 Q. So Suzanne Ruggiero is Dwight Brown's
11 girlfriend?

12 A. Right.

13 Q. Eventually, in connection with taking the
14 car that time you were arrested, right?

15 A. They came to my house the next day.

16 Q. Right.

17 A. And they --

18 Q. Was Suzanne Ruggiero there with you?

19 A. Right, she was at my house.

20 Q. You were arrested then, right?

21 A. In my house, yeah.

22 Q. Then were you taken down to the police
23 station?

24 A. Yeah.

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1 him the right to accuse me of stealing his
2 car when it's not his car.

3 Q. But you say you had permission from Bobby to
4 use the car?

5 A. Exactly.

6 Q. So what happened at the end of the day in
7 court?

8 A. At the end of the day, they let us go.

9 Q. So you didn't have to plead guilty or admit
10 anything?

11 A. Right. No.

12 Q. So basically you were just totally let go?

13 A. Right.

14 Q. Were you ever sentenced at all?

15 A. No.

16 Q. You were never given any probation or a fine
17 of any kind?

18 A. No.

19 MR. KELLY: Off the record.

20 (Discussion off the record.)

21 A. They gave us \$100 each to pay and then when
22 I went to pay it, they said "No, you don't
23 have to pay it."

24 Q. Where did you try to pay that?

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1 Q. What happened to you at the police station?

2 A. Just spend the night in jail.

3 Q. Did you have to go to court after that?

4 A. Right.

5 Q. Which court did you go to?

6 A. Went to Dorchester.

7 Q. What happened at court?

8 A. What happened in the court?

9 Q. Yes.

10 A. The judge asked the police officer if the
11 car was properly safe, where did he find it,
12 and he found it where I left it, I parked it
13 at the parking lot of the Grover Cleveland.

14 Q. Okay.

15 A. So then the police officer told the judge
16 that he went to my house and the judge asked
17 him, "Can you see the parking lot from his
18 house," and the police officer said "No," so
19 the judge looked at the police officer and
20 said "I don't want to hear no more from this
21 police officer," and then Dwight was
22 talking, and there was no need for him, you
23 know, what I'm saying, they asked him if he
24 owns the car, if he owns the car, what gives

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1 A. At the Dorchester -- where you go pay in
2 Dorchester.

3 Q. Okay.

4 MR. KELLY: Off the record.
5 (Discussion off the record.)

6 Q. So other than the arrest for stealing a car,
7 even though I understand that you know you
8 say you didn't steal the car, and the arrest
9 for the operating under the influence that
10 we talked about, and the other arrests that
11 have to do with the warrant issue, are there
12 any other times that you've been arrested?

13 A. No.

14 Q. Have you ever been the subject of a
15 restraining order?

16 A. That's one time I took Dwight Brown to
17 court. I took Dwight Brown to court one
18 time because he sneaked -- his girlfriend
19 was in my house, and he was looking for
20 Suzanne Ruggiero, and he sneaked in my
21 house.

22 Q. Dwight Brown sneaked into your house?

23 A. Right.

24 Q. Okay.

21 (Pages 78 to 81)

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1 remember his phone number, (857) 389-0228.
 2 Q. You seem to have a good memory for these
 3 numbers?
 4 A. Yeah, pretty much.
 5 Q. When you said you were painting on the side,
 6 does that mean you also had another job?
 7 A. Right, the guy, he got too old, so then I
 8 was working for this guy James Hiemey --
 9 James Hernandez.
 10 Q. Did you have any other jobs while you were
 11 painting?
 12 A. Yeah, sometime working for East Coast,
 13 because I was working for East Coast steady.
 14 Q. When did you work for East Coast?
 15 A. Between 2000 it was off and on. Sometimes
 16 it was off and on.
 17 Q. So you worked for East Coast from when to
 18 when?
 19 A. From, I think, maybe '99 or '98 or 2000.
 20 '99 to 2003, something like that.
 21 Q. Why did you stop working at East Coast?
 22 A. Because she wasn't paying too good, so I
 23 found a better job. I found a better job
 24 working for Peter in 2002.

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1 Q. That's Peter Trinh, right?
 2 A. Right.
 3 Q. But he wasn't paying very well, either?
 4 A. Yeah, pretty much he wasn't paying pretty
 5 well, and I didn't like it because sometimes
 6 we had to go far away, go to Philadelphia,
 7 and \$50 for one day, but anyway, the last
 8 job I got now is Maidu, something like that,
 9 it's in Boston, 645 Summer Street in South
 10 Boston, and then the office.
 11 MR. KELLY: We got it.
 12 Q. Okay. So when were you working for the
 13 Somerset Club?
 14 A. The Somerset Club.
 15 Q. Yeah, what years?
 16 A. I think 1988 to, I think, 2007 -- 2097.
 17 Q. 1997?
 18 A. 1997, yeah, or 1996, 1997. They knew about
 19 me being --
 20 MR. KELLY: Focus on the question.
 21 There isn't one before you right now.
 22 Right? Let's get this over while we're all
 23 still relatively young.
 24 Q. So you were washing dishes at the Somerset

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1 Club?
 2 A. Yeah. Because the thing is --
 3 Q. Hold on. I really counsel you, don't say
 4 anything when I'm not asking you a question.
 5 A. All right.
 6 Q. As a result of being arrested because of the
 7 warrants, you mentioned possibly missing
 8 some days of work?
 9 (Witness nods.)
 10 Q. When was that?
 11 A. I'm sorry, can you repeat that again?
 12 Q. I'm sorry. How many days of work did you
 13 miss because you were arrested in connection
 14 with the warrants?
 15 A. I'd say like 14.
 16 Q. You think about 14 days?
 17 A. Yeah.
 18 Q. Do you know when those days were?
 19 A. That was when they arrest me, they would
 20 keep me in jail until --
 21 Q. But do you know the dates that that
 22 happened?
 23 A. In March 10, 97, because I was working at
 24 the Mass. College of Arts, and that one, let

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1 me see, I don't recall if I went in the next
 2 day, but I think I didn't go to work.
 3 Q. Okay. Do you remember any of the other
 4 dates that you missed because of the
 5 arrests?
 6 A. Sometime while I was working, while I was
 7 working and when I was going to work.
 8 Q. Okay. You mentioned before that your car
 9 was towed once when you were arrested
 10 because a woman you were with just went home
 11 and you were taken to the station, so they
 12 had to get your car off the road, right?
 13 A. Right.
 14 Q. That happened once, did it ever happen
 15 again?
 16 A. Yeah, it happened.
 17 Q. When did it happen the second time?
 18 A. I can't remember the year, but that happened
 19 on Alston Street. They didn't tow my car
 20 every time that they arrested me.
 21 Q. I understand that. So when you were on
 22 Alston Street, when was that?
 23 A. The year? I don't remember the year. It
 24 wasn't the Oldsmobile car that I had.

24 (Pages 90 to 93)

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1 Q. It was the Oldsmobile?
 2 A. No, it wasn't.
 3 Q. What car was it?
 4 A. It was a weird name. Mercury, something
 5 like that. I can't recall the name of the
 6 car.
 7 Q. Do you remember the year of the car at all
 8 or the license plate or anything?
 9 A. No.
 10 Q. Do you have any receipt of, you know,
 11 picking up the car?
 12 A. No.
 13 Q. Was the car, did you ever have a car
 14 impounded or taken to the lot any other
 15 time, other than those two times?
 16 A. No. They towed my car about two or three
 17 times, that's all.
 18 Q. Do you remember the third time then?
 19 A. I don't recall the third time.
 20 MR. FORTON: Let me just take a
 21 minute.
 22 (Recess.)
 23 Q. At some point in connection with these
 24 arrests, were you interviewed by someone

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1 from Channel 7?
 2 A. Yes.
 3 Q. Do you remember who that was?
 4 A. I remember her first name Christy something.
 5 Christine.
 6 Q. Do you remember where you were interviewed?
 7 A. I was in my lawyer's office.
 8 Q. How did you come to be interviewed, how did
 9 they choose you?
 10 A. They chose me because my lawyer spoke to
 11 them the first time that I saw him at the
 12 Superior Court, and that's how.
 13 MR. FORTON: I don't think I have
 14 any other questions right now.
 15 MR. KELLY: Off the record for a
 16 second.
 17 (Discussion off the record.)
 18 MR. KELLY: A couple quick
 19 questions.
 20 CROSS-EXAMINATION
 21 (By Mr. Kelly)
 22 Q. Manuel, you recall Mr. Forton asking you
 23 whether or not you were physically or
 24 emotionally harmed from these arrests that

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1 were made on these warrants, correct?
 2 (Witness nods.)
 3 Q. I didn't hear you say anything.
 4 A. Yes. Correct.
 5 Q. With regard to physical harm, you indicated
 6 in your Interrogatories and you indicated
 7 here today that you were not physically
 8 harmed by the police officers during these
 9 arrests, correct?
 10 A. Correct.
 11 Q. But with regard to emotional harm which he
 12 asked you, you began to talk about that
 13 you're uncomfortable when the matter is
 14 brought up around family members, correct?
 15 A. Correct.
 16 Q. Family members or friends were present on
 17 one or more of these occasions when you were
 18 arrested on this warrant, correct?
 19 A. Correct.
 20 Q. You were embarrassed at that time?
 21 A. Correct.
 22 Q. You suffered emotionally from that?
 23 A. Yes, that's fair to say.
 24 Q. At one point you affirmed in your

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1 Interrogatories that you were afraid of
 2 police when you saw a police car, is that
 3 correct?
 4 A. That's correct.
 5 Q. Do you still have some of those feelings
 6 today about nervousness over seeing a police
 7 car or policeman in your area or vicinity?
 8 A. Pretty much.
 9 Q. With regard to any embarrassment you may
 10 have suffered with coworkers during this
 11 time. Did some of the people that you
 12 worked with or employed you, were they aware
 13 of these arrests?
 14 A. Yes, they were.
 15 Q. You suffered some embarrassment and some
 16 emotional trauma from that, is that fair to
 17 say?
 18 A. That's fair to say.
 19 MR. KELLY: Thank you.
 20 MR. FORTON: I don't have any other
 21 questions. Thank you. Just on the record,
 22 are there any other documents that you're
 23 going to be giving me that respond to the
 24 document request?

25 (Pages 94 to 97)

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1 MR. KELLY: Yes and no. Yes, if I
 2 can get them through you or if I have a
 3 subpoena issued to the keeper of records
 4 with the Boston Police with regard to the
 5 initial arrest, as we know his name to be,
 6 Louis Santiago, and things along those
 7 lines, so anything that I have apart from
 8 what I think we're going to exchange, I'll
 9 obviously give you, but I have nothing more
 10 than what you have right now.

11 MR. FORTON: All right. Thank you.
 12 (Whereupon the Deposition was
 13 concluded at 3:05 p.m.)
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1 COMMONWEALTH OF MASSACHUSETTS
 2 MIDDLESEX, ss.
 3

4 I, Kelly G. Patterson, a Notary Public duly
 5 commissioned and qualified within and for
 6 the Commonwealth of Massachusetts, do hereby
 7 certify:

8 That MANUEL ROSA, the witness whose
 9 deposition is hereinbefore set forth, was
 10 duly sworn by me, and that such deposition
 11 is a true record of the testimony given by
 12 the witness to the best of my skill,
 13 knowledge, and ability.

14 IN WITNESS WHEREOF, I have hereunto set my
 15 hand and my affixed notarial seal this 29th
 16 day of September, 2005.
 17
 18

19 Kelly G. Patterson
 20 Notary Public
 21
 22

23 My Commission expires:
 24 September 20, 2007

6 (Pages 98 to 99)